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FACSIMILE TRANSMITTAL COVER SHEET

DATE: August 3, 2004 ATTORNEY DOCKET NUMBER: KCC 4979.1
PTO FACSIMILE NUMBER: (703) 872-9306

PLEASE DELIVER THIS FACSIMILE TO: Office of Petitions
E. Shirene Willis

THIS FACSIMILE IS BEING SENT BY: Christopher M. Goff
NUMBER OF PAGES: 32 INCLUDING COVER SHEET

TIME SENT: 1:38 pm OPERATOR'S NAME Donna Tucker

CERTIFICATION OF FACSIMILE TRANSMISSION

I hereby certify that this paper is being facsimile transmitted to
the Patent and Trademark Office on the date shown below.

Donna M. Tucker
Typed or printed name of person signing certification

Donna Tucker
Signature

August 3, 2004
Date

Type of paper transmitted: Request For Reconsideration Of Petition
To Maintain The Filing Date Under 37 C.F.R. §1.53(e) and Enclosures

Applicant's Name: Kimberly-Clark Worldwide, Inc.

Serial No. (Control No.): 10/659,969 Examiner: Office of
Petitions

Filing Date: September 11, 2003 Art Unit: _____

Application Title: ABSORBENT PRODUCTS COMPRISING A MOISTURIZING AND
LUBRICATING COMPOSITION

IF YOU DO NOT RECEIVE ALL PAGES CLEARLY, CALL BACK AS SOON AS
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RECEIVED
CENTRAL FAX CENTERKCC 4979.1 AUG - 3 2004
(K-C 19,378B)
PATENT

OFFICIAL

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of Wael R. Joseph, et al.
Application Ser. No. 10/659,969
Filed September 11, 2003
For ABSORBENT PRODUCTS COMPRISING A MOISTURIZING AND LUBRICATING
COMPOSITION

August 3, 2004

REQUEST FOR RECONSIDERATION OF
PETITION TO MAINTAIN THE FILING DATE
UNDER 37 C.F.R. §1.53(e)

TO THE COMMISSIONER OF PATENTS AND TRADEMARKS

Dear Sir:

In response to the Decision Dismissing Petition dated June 29, 2004, which dismissed Applicants' Petition under 37 C.F.R. 1.53(e), Applicants hereby submit this Request for Reconsideration of the Petition under 37 C.F.R. §1.53(e) to maintain a filing date of September 11, 2003 for the above-referenced patent application, including page 19 therein.

A review of the facts described in the Petition and those occurring after the Petition was filed are included for clarity. These facts are based on a reasonable and diligent investigation of the circumstances leading to the issuance of the Notice To File Missing Parts, which claims that page 19 was omitted from the application at the time of filing.

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A. STATEMENT OF FACTS

1. On September 11, 2003, Applicants submitted, via United States Express Mail (Label No. EV 327053756US), a Form 391 postcard, an Application Data Sheet (3 pages), a Utility Patent Application Transmittal (also referred to as "Transmittal LTPTO") (3 pages), a patent application (49 pages in numerical order, including the description, claims, and abstract), Fee Transmittal, in duplicate (2 pages), filing fee submitted in the form of a check, and four (4) sheets of drawings, in connection with the above-referenced application. As such, a total of sixty-one (61) pages, a Form 391 postcard, and a check were submitted in the September 11, 2003 Express Mail mailing.
2. As can be seen on the enclosed copy of an internal express mailing log (Exhibit A), documents with attorney docket number KCC 4979.1 (Client/Matter) and consisting of 59 total pages were deposited with the United States Postal Service on September 11, 2003.
3. Applicants note that the notation of "59" pages in the internal express mailing log appears at first glance inconsistent with the total "61" pages submitted in the Express Mail mailing as discussed in paragraph 1 above. The apparent inconsistency is due to the routine practice used by Applicants' attorneys, which is to staple the Fee Transmittal (original and duplicate), the check, and the Form 391 postcard together, separate from the Application Data Sheet, Transmittal LTPTO, the patent application, and the drawings. The stapled Fee Transmittal (in duplicate), check, and 391 postcard are not counted in the internal express mailing log. Such a practice has been

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implemented to allow for the Patent Office to separate, stamp, and return the Form 391 postcard to the Applicant and send the Fee Transmittal (in duplicate) and check to the accounting department in the USPTO. The remaining unstapled pages of the nonprovisional application submission (i.e., the 59 separate pages indicated on the internal express mailing log discussed above) are sent to a separate department of the USPTO. As evidence of this practice, the declaration of Donna M. Tucker, who mailed the nonprovisional application papers, is enclosed (Exhibit B). As such, there is no inconsistency between the actual 61 pages sent to the USPTO and the number "59" entered on the internal log.

4. The Express Mail mailing receipt, evidencing that this deposit was in fact made with the Postal Service, is also enclosed (Exhibit C).

5. As can be seen on the enclosed copy of the date-stamped Form 391 postcard receipt (both sides) (Exhibit D), the Patent office received 49 Total Pages of Application, 4 Sheets of Drawings, the Application Data Sheet, the Transmittal LTPTO (Exhibit E), the Fee Transmittal Form (submitted in duplicate), and the Filing Fee. The Form 391 postcard receipt indicates that all of the above documents, without exception, were received by the USPTO on September 11, 2003. The date-stamped postcard received from the patent office was not annotated by the office as being deficient in any manner.

6. On April 14, 2004, the office mailed a filing receipt (Exhibit F) for the above-referenced application.

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7. On April 14, 2004, the office mailed the Notice To File Missing Parts including an omitted item, in which it was suggested that if Applicants believe the omitted item was deposited with the nonprovisional application papers, it should be corrected by filing a Petition To Maintain The Filing Date Under 37 C.F.R. §1.53(e). A copy of the Notice To File Missing Parts is enclosed (Exhibit G).

8. A Petition To Maintain The Filing Date Under 37 C.F.R. §1.53(e) (Exhibit H) was filed on April 26, 2004, less than two months after the mailing date of the Notice To File Missing Parts including the omitted item.

9. On June 29, 2004, the office mailed a Decision Dismissing Petition. In the Decision, the office asserts that the return postcard was not properly itemized as "more than 49 pages were filed on September 11, 2003." As such, the return postcard could not be relied on as *prima facie* evidence that page 19 was filed on September 11, 2003. A copy of the Decision Dismissing Petition is enclosed.

B. Arguments in Response to Decision Dismissing Petition

As noted above, the office asserts that the return postcard was not properly itemized because the office received more pages than were itemized on the postcard and as such, it cannot be relied on as evidence that page 19 of the instant application was filed on September 11, 2003. Applicants respectfully disagree that the postcard was not properly itemized, and assert that by

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MPEP rule, the patent office must recognize as *prima facie* evidence all of the itemized items received by the office.

As stated in MPEP 503, "a postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon." Specifically, MPEP 503 further sets forth the requirements for a properly itemized postcard, which is sufficiently complete to identify the item for which receipt is requested. The postcard for a new nonprovisional application "should include: (1) applicant's name, (2) title of invention; (3) number of pages of specification (including written description, claims, and abstract); (4) number of claims; (5) number of sheets of drawings; (6) number of pages of oath/declaration; (7) a list of any additional forms included with the application (e.g., application transmittal form, application data sheet, and fee transmittal form); and (8) amount and manner of paying the fee."

As specifically set forth in MPEP 503, the person receiving the items in the USPTO will check the listing on the postcard against the items being filed to be sure they are properly identified and that all of the items listed on the postcard are presently being submitted to the USPTO. If any of the items listed on the postcard are not being submitted to the USPTO, those items will be crossed off and the postcard initialed by the person receiving the items. If the postcard has been annotated to indicate that a particular item denoted on the postcard was not received by the USPTO, the postcard receipt will not serve as *prima facie* evidence of receipt of that item in the USPTO. However, upon return receipt, the properly itemized postcard will

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provide prima facie evidence that each item on the card was received by the office on the date stamped.

Regarding the requirements for a properly itemized postcard, the first requirement, applicant's name, is clearly set forth on the postcard as "Joseph et al." The second requirement, the title of the invention, is also clearly set out on the 391 postcard as "Absorbent Products Comprising A Moisturizing and Lubricating Composition." The third requirement, the number of pages of the specification¹ (including written description, claims, and abstract as defined in MPEP 503) is also clearly set forth on the post card as "49." This 49 pages included the number of pages of the written description, claims, and abstract, as required by the MPEP, and were sequentially numbered from 1 to 49.² The fourth requirement, the number of claims, is clearly set forth as "61" on the postcard. The fifth requirement, the number of sheets of drawings, is also plainly set forth on the

¹Applicants note that applicants' 391 postcard specifically sets forth "Total Pages of Application." From a review of the submitted items, it would be clear that "Total Pages of Application" included the written description, claims and abstract, which, in this case, were sequentially numbered pages 1-49. This corresponds to the "49" marked next to the "Total Pages of Application" on the 391 postcard, and in accordance with MPEP 503. It is clear that the patent office recognized this as the date stamped postcard returned to applicants was not annotated, as discussed below.

²The fact that applicants submitted 49 pages including the written description, claims, and abstract is further corroborated by a review of the Transmittal LTPTO (Exhibit E), which was included with the filings and duly noted on the 391 postcard. This transmittal letter clearly sets forth "Specification [Total Pages 49]" and separately lists "Drawings [Total Sheets 4]". This further shows that the 49 pages included only the written description, claims, and abstract.

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postcard as "4." The sixth requirement, the number of pages of the oath/declaration, was intentionally left blank on the 391 postcard as they were not submitted with the application. The seventh requirement, a list of any additional forms including the application transmittal form, application data sheet, and fee transmittal form, is also clearly set forth on the 391 postcard by placing an "X" in the "Transmittal LTPTO" box, by placing an "X" in the "Application Data Sheet" box, and by placing an "X" in the "Fee Transmittal Form" box. The eighth requirement, the amount and manner of paying the fee, is also clearly shown on the postcard as an "X" was placed in the box for "Filing Fee" in which the amount and manner of payment were shown.

Importantly, applicants note that it is incontrovertible that none of the items listed on the postcard were crossed off and initialed by the person receiving the items in the USPTO. As such, by MPEP rules, the postcard is *prima facie* evidence that all items listed on the postcard were received by the USPTO.

Despite the foregoing facts, the office asserts that the postcard was not properly itemized because an independent review of the application revealed that more than 49 total pages were filed with the application; that is, the office received more pages than what was itemized on the postcard. Although applicants agree with the office that more than 49 pages were received by the USPTO, applicants assert that the office's conclusion that the postcard is not *prima facie* evidence of receipt of all items listed, which would include page 19, is clearly erroneous.

A review of the 391 postcard in this matter, which was prepared strictly in accordance with the rules set forth in MPEP

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503 as discussed above, shows that the total number of pages that were received by the USPTO should be, and was, greater than 49, as determined by the office. Specifically, just the number of sheets of drawings and total number of pages of application is 53 pages:

1. Sheets of Drawings	4 pages
2. Total Pages of Application including written description, claims, and abstract	49 pages
Total	53 pages

This does not even take into account the other itemized pages, including the Application Data Sheet, the Transmittal LTPTO, and the Fee Transmittal (submitted in duplicate). It is clear that more than 49 pages (i.e., 61 pages as indicated by the 391 postcard) were sent to, and received, by the USPTO; all of which were properly itemized.

Further, the office claims that, as stated in MPEP 503:

"merely listing on the postcard... 'patent application' will not serve as a proper receipt for each of the required components of an application."

Applicants are unsure why this is asserted by the office as applicants' 391 postcard clearly lists "Total Pages of Application (49)" in strict accordance with the MPEP rules;

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applicants provided 49 sequentially numbered pages, which included the description, claims, and abstract (See Footnotes 1 and 2 above). As noted above, other parts of the application, including the Number of Sheets of Drawings (4) are separately listed on the postcard in accordance with MPEP rules. It is clear that applicants properly itemized each separate item on the postcard.

Notwithstanding the foregoing, as discussed above and pursuant to MPEP 503, it is incumbent upon the USPTO, upon receipt of items from applicant, to check the listing on the postcard against the items being filed to be sure they are properly identified and that all items listed on the postcard are presently being submitted to the USPTO. If any item listed on the postcard is not being submitted to the USPTO, that item(s) will be crossed off and the postcard initialed by the person reviewing the items. Unless the postcard receipt has been annotated to indicate that a particular item denoted on the postcard was not received by the office, the postcard must be prima facie evidence that all items were submitted. It is clear that applicant's postcard was reviewed by the USPTO as it was date-stamped and sent back to applicants. Importantly, no items were crossed off and initialed by the USPTO as not being submitted. Pursuant to the MPEP rules, the office must have checked the items being submitted, counted the pages, and agreed that all items were properly submitted. As such, the postcard must be considered prima facie evidence that all items on the postcard were submitted, including page 19 of the 49 pages of the Total Pages of Application.

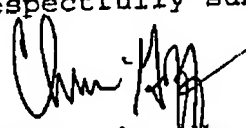
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(K-C 19,378B)
PATENT

In view of the foregoing, Applicants respectfully submit that specification page 19 of the above-referenced application was deposited with the nonprovisional application papers, and that the filing date of September 11, 2003 (09/11/2003) should be maintained for the application, including page 19 of the specification. Notwithstanding the foregoing, as a courtesy to the office, Applicants enclose a copy of page 19 of the specification of the above-referenced application.

C. Petition Fee (37 C.F.R. §1.17(h)).

The Commissioner is hereby authorized to charge any fee deficiency in connection with this Request For Reconsideration Of Petition To Maintain The Filing Date Under 37 C.F.R. §1.53(e) to Deposit Account No. 19-1345. In the event that page 19 of the specification is determined to have been received by the United States Patent and Trademark Office, Applicants respectfully request that a refund of the fee be applied to the aforementioned Deposit Account.

Respectfully submitted,


Christopher M. Goff, Reg. No. 41,785
SENNIGER, POWERS, LEAVITT & ROEDEL
One Metropolitan Square, 16th Floor
St. Louis, Missouri 63102
(314) 231-5400

CMG/JMB/dmt

Via facsimile (703) 872-9306

Exhibit A

EXPRESS MAIL LOG

[DATE]

9/11

CLIENT/ MATTER	DESCRIPTION OF CONTENTS DESCR OF DOC # PGS # DRWNGS	CONTENTS VERIFIED BY	DEPOSTD US P.O. TIME INITLS
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Pat App

"

"

"

"

Doc 4979.1

"

59

AL

CLIENT/MATTER:

DESCR OF DOC:

PGS:

DRWNGS:

CONTENTS VERIFIED BY:

TIME and INITLS:

Client Designation and Matter Number

Examples: Patent Application, Amendment A, Declaration

Number of pages contained in document

Number of drawings enclosed, if applicable

Initials of individual [e.g., secretary] who verified the contents of Express Mail envelope

The time of day Express Mail envelope is deposited with the US Post Office; and the initials of the individual who deposited Express Mail envelope with the US Post Office [NOTE: MUST BE THE SAME INDIVIDUAL]

Exhibit B

KCC 4979.1
K-C 19,378B
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of Wael R. Joseph, et al.

Serial No. 10/659,969

Filed September 11, 2003

For ABSORBENT PRODUCTS COMPRISING A MOISTURIZING AND LUBRICATING
COMPOSITION

August 3, 2004

DECLARATION OF DONNA M. TUCKERTO THE COMMISSIONER FOR PATENTS,
SIR:

I, Donna M. Tucker, do hereby state and declare as follows:

1. I am currently employed as a secretary at the law firm of Senniger, Powers, Leavitt & Roedel. I work directly for Christopher M. Goff, a partner at Senniger, Powers, Leavitt & Roedel.

2. On September 11, 2003, I mailed, via United States Express Mail (Label No. EV 327053756US), a Form 391 postcard, an Application Data Sheet (3 pages), a Utility Patent Application Transmittal (also referred to as "Transmittal LTPTO") (3 pages), a patent application (49 pages in numerical order, including the description, claims, and abstract), a Fee Transmittal, in duplicate, (2 pages), filing fee submitted in the form of a check, and four (4) sheets of drawings, in connection with the above-referenced application. As such, I mailed a total of sixty-one (61) pages, a Form 391 postcard, and a check to the USPTO via Express Mail.

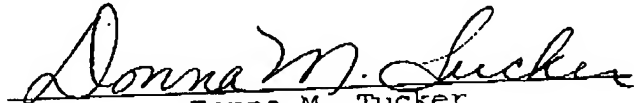
KCC 4979.1
K-C 19,378B
PATENT

3. Pursuant to my routine practice at Senniger, Powers, Leavitt & Roedel, which is also the routine practice of other secretaries, I attached, by stapling, the Fee Transmittal (original and duplicate), the filing fee (check), and the Form 391 postcard. I then counted page by page and documented the number of remaining nonprovisional application papers (i.e., 59 pages) in Senniger, Powers, Leavitt & Roedel's internal express mailing log.

4. It is my understanding that the above practice is used for the convenience of the USPTO, as the 391 postcard is removed from the Fee Transmittal and the check, reviewed for all itemized items, date-stamped, and returned to the Applicant; the Fee Transmittal (original and duplicate) and the check are sent to the Accounting Department in the USPTO; and the remaining unstapled papers (i.e., the 59 pages referred to in the internal express mailing log) are sent to a second department in the USPTO.

5. I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date: 8-3-04


Donna M. Tucker

Customer Copy
Valid 11-P, June 2002

Exhibit C



EV 327053756 US

**EXPRESS
MAIL**

UNITED STATES POSTAL SERVICE®

Post Office To Addressee

ORIGIN (POSTAL USE ONLY)

PO ZIP Code 63169	Day of Delivery <input type="checkbox"/> Next <input type="checkbox"/> Second <input checked="" type="checkbox"/> Third	Flat Rate Envelope <input type="checkbox"/>
Date In 9/1/03	<input type="checkbox"/> 12 Noon <input type="checkbox"/> 3 PM	Postage \$ 13.65
Time In 4:16	Military <input type="checkbox"/>	Return Receipt Fee <input type="checkbox"/>
<input type="checkbox"/> AM <input checked="" type="checkbox"/> PM	<input type="checkbox"/> End Day <input type="checkbox"/> 3rd Day	COO Fee
Weight 122	Int'l Alpha Country Code	Insurance Fee
No Delivery <input type="checkbox"/> Weekend <input type="checkbox"/> Holiday	Acceptance Clerk Initials JA	Total Postage & Fees \$ 13.65

DELIVERY (POSTAL USE ONLY)

Delivery Attempt	Time <input type="checkbox"/> AM <input type="checkbox"/> PM	Employee Signature John Sash
Delivery Attempt	Time <input type="checkbox"/> AM <input type="checkbox"/> PM	Employee Signature
Delivery Date	Time <input type="checkbox"/> AM <input type="checkbox"/> PM	Employee Signature
Mo. Day	<input type="checkbox"/> AM <input type="checkbox"/> PM	

CUSTOMER USE ONLY

METHOD OF PAYMENT

Express Mail Corporate Acct. No.

FROM: (PLEASE PRINT)

PHONE **314, 231 5400**

SENNIGER POWERS LEAVITT
& ROEDEL
1 METROPOLITAN ST FL 16
SAINT LOUIS MO 63102-2711

TO: (PLEASE PRINT)

PHONE

Mail Stop Patent Application
COMMISSIONER FOR PATENTS
PO BOX 1450
ALEXANDRIA VA 22313-1450

PRESS HARD

For and Making Envelope

FOR PICKUP OR TRACKING CALL 1-800-222-1811 www.usps.com



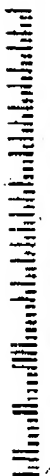
Exhibit D

Exhibit D



SENNIGER, POWERS, LEAVITT AND ROEDEL
ONE METROPOLITAN SQUARE
16TH FLOOR
ST. LOUIS, MISSOURI 63102

SEP 22 2003



(391)

US APPLICATION

File 4979.1 (192183) Attorney Craig/Smith
 Client Name Kendrick, Clark Worldwide
 Application of Copyright
 Title Liberty Products Company
Liberty Products Company
 Express Mail No. 327053756 PS

Application
☒ (X) Liberty Application
☐ () Transmittal LTPTO
☐ () Number of claims
☐ () Fee Transmittal Form (in duplicate)
☐ () Sheets of drawings
☐ () Combined Declaration/Power of Attorney
☐ () Total Pages of Application
☒ (X) Filing Fee \$ 114 (check enclosed)
☐ () Abstract
☐ () Preliminary Amendment
☒ (X) Application Data Sheet
☐ () Other

Exhibit E

Senniger, Powers, Leavitt & Roedel

Attorneys at Law

Patents, Trademarks, Copyrights,
Technology Law, Antitrust, Litigation

Christopher M. Goff

One Metropolitan Square, 16th Floor
Saint Louis, Missouri 63102Telephone: 314-231-5400
Facsimile: 314-231-4342

www.senniger.com

September 11, 2003

EV327053756US

UTILITY PATENT APPLICATION TRANSMITTAL
(new nonprovisional applications under 37 CFR 1.53(b))

Attorney Docket Number: KCC 4979.1 (K-C 19,378B)
First Named Inventor: Wael R. Joseph
Title: ABSORBENT PRODUCTS COMPRISING A MOISTURIZING AND
LUBRICATING COMPOSITION

Express Mail Label Number: EV 327053756 US

TO: Mail Stop Patent Application
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

APPLICATION ELEMENTS

1. ☒ Fee Transmittal Form
(original and duplicate)
2. ☐ Applicant claims small entity status
3. ☒ Specification [Total Pages 49]
4. ☒ Drawings [Total Sheets 4]
5. Oath or Declaration [Total Pages]
 - a. ☐ Newly executed (original or copy)
☐ New (unexecuted)
 - b. ☐ Copy from a prior application
(for continuation/divisional with
Box 19 completed)
 - i. ☐ DELETION OF INVENTOR(s)
Signed statement attached
deleting inventor(s) named
in prior application.

6. ☐ Incorporation By Reference
(useable if Box 5b is marked)
The entire disclosure of the prior application, from which a copy of the oath or declaration is supplied under Box 5b, is considered as being part of the disclosure of the accompanying application and is hereby incorporated by reference therein.
7. ☒ Application Data Sheet
8. ☐ CD-ROM or CD-R in duplicate, large table or Computer Program (Appendix)
9. ☐ Nucleotide and/or Amino Acid Sequence Submission (if applicable, all necessary)
- a. ☐ Computer Readable Form
- b. ☐ Specification Sequence Listing on:
- i. ☐ CD-ROM or CD-R (2 copies); or
- ii. ☐ paper
- c. ☐ Statements verifying identity of above copies

ACCOMPANYING APPLICATION PARTS

10. ☐ Assignment Papers (cover sheet & document(s))
11. ☐ 37 CFR 3.73(b) Statement ☐ Power of Attorney
12. ☐ English Translation Document (if applicable)
13. ☐ IDS with PTO/SB/O8A ☐ Copies of IDS Citations
14. ☐ Preliminary Amendment
15. ☒ Return Receipt Postcard
16. ☐ Request and Certification for Non-Publication. Form PTO/SB/35 is attached.
17. ☐ Certified Copy of Priority Document(s) if foreign priority is claimed
18. ☐ Other: _____

IF A CONTINUING APPLICATION, CHECK APPROPRIATE BOXES AND SUPPLY THE REQUISITE INFORMATION

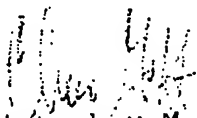
19. ☐ Continuation ☐ Divisional ☐ Continuation-in-Part
of prior application No.: _____
- ☐ Complete Application based on provisional Application
No. _____

Prior application information: Examiner:
Group Art Unit:

CORRESPONDENCE ADDRESS

20. Correspondence Address: Customer Number 321
Attention: Christopher M. Goff

Respectfully submitted,


Christopher M. Goff, Reg. No. 41,785

CMG/dmt

Exhibit F

Page 1 of 2



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371 (e) DATE	ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/659,969	09/11/2003	3763	1488	KCC 4979.1 (K-C 19, 378B)	4	61	2

CONFIRMATION NO. 5031

000321
SENNIGER POWERS LEAVITT AND ROEDEL
ONE METROPOLITAN SQUARE
16TH FLOOR
ST LOUIS, MO 63102

FILING RECEIPT

11/27/2003 10:00 AM
"OC000000012355336"

Date Mailed: 04/14/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).

Applicant(s)

- ✓ Wael R. Joseph, Appleton, WI;
- ✓ Keisha Clarke, Appleton, WI;
- ✓ Duane G. Krzysik, Appleton, WI;
- ✓ Bernard J. Minerath III, Oshkosh, WI;

Assignment For Published Patent Application

✓ Kimberly-Clark Worldwide, Inc.;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 04/14/2004

Projected Publication Date: To Be Determined - pending completion of Missing Parts

Non-Publication Request: No

Early Publication Request: No

Title

✓ Absorbent products comprising a moisturizing and lubricating composition

Preliminary Class

604

**LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15**

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

Exhibit G
Page 1 of 2

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
✓ 10/659,969	✓ 09/11/2003	✓ Wael R. Joseph	✓ KCC 4979.1 (K-C 19, 378B)

CONFIRMATION NO. 5031

000321
SENNIGER POWERS LEAVITT AND ROEDEL
ONE METROPOLITAN SQUARE
16TH FLOOR
ST LOUIS, MO 63102

FORMALITIES LETTER

OC000000012355337

Date Mailed: 04/14/2004

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

Items Required To Avoid Abandonment:

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is missing.
A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of \$130 for a non-small entity, must be submitted with the missing items identified in this letter.

The following item(s) appear to have been omitted from the application:

- Page(s) 19 of the specification (description and claims).

I. Should applicant contend that the above-noted omitted item(s) was in fact deposited in the U.S. Patent and Trademark Office (USPTO) with the nonprovisional application papers, a copy of this Notice and a petition (and \$130.00 petition fee (37 CFR 1.17(h))) with evidence of such deposit **must** be filed within **TWO MONTHS** of the date of this Notice. The petition fee will be refunded if it is determined that the item(s) was received by the USPTO.

II. Should applicant desire to supply the omitted item(s) and accept the date that such omitted item(s) was filed in the USPTO as the filing date of the above-identified application, a copy of this Notice, the omitted item(s) (with a supplemental oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items), and a petition under 37 CFR 1.182 (with the \$130.00 petition fee (37 CFR 1.17(h))) requesting the later filing date **must** be filed within **TWO MONTHS** of the date of this Notice.

Applicant is advised that generally the filing fee required for an application is the filing fee in effect on the filing date accorded the application and that payment of the requisite basic filing fee on a date later than the filing date of the application requires payment of a surcharge (37 CFR 1.16(e)). To avoid processing delays and payment of

a surcharge, applicant should submit any balance due for the requisite filing fee based on the later filing date being requested when submitting the omitted item(s) and the petition (and petition fee) requesting the later filing date.

III. The failure to file a petition (and petition fee) under the above options (I) or (II) within **TWO MONTHS** of the date of this Notice (37 CFR 1.181(f)) will be treated as a constructive acceptance by the applicant of the application as deposited in the USPTO. **THIS TWO MONTH PERIOD IS NOT EXTENDABLE UNDER 37 CFR 1.136(a) or (b).** In the absence of a timely filed petition in reply to this Notice, the application will maintain a filing date as of the date of deposit of the application papers in the USPTO, and original application papers (*i.e.*, the original disclosure of the invention) will include only those application papers present in the USPTO on the date of deposit.

In the event that applicant elects not to take action pursuant to options (I) or (II) above (thereby constructively electing option (III)), amendment of the specification to renumber the pages consecutively and cancel incomplete sentences caused by any omitted page(s), and/or amendment of the specification to cancel all references to any omitted drawing(s), relabel the drawing figures to be numbered consecutively (if necessary), and correct the references in the specification to the drawing figures to correspond with any relabeled drawing figures, is required. A copy of the drawing figures showing the proposed changes in red ink should accompany with any drawing changes. Such amendment and/or correction to the drawing figures, if necessary, should be by way of preliminary amendment submitted prior to the first Office action to avoid delays in the prosecution of the application.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is \$130 for a Large Entity

- \$130 Late oath or declaration Surcharge.

Replies should be mailed to: Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

*A copy of this notice **MUST** be returned with the reply.*



Customer Service Center
Initial Patent Examination Division (703) 308-1202

PART 1 - ATTORNEY/APPLICANT COPY

Exhibit H

KCC 4979.1
(K-C 19,378B)
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of Wael R. Joseph, et al.
Application Ser. No. 10/659,969
Filed September 11, 2003
For ABSORBENT PRODUCTS COMPRISING A MOISTURIZING AND LUBRICATING
COMPOSITION

April 22, 2004

PETITION TO MAINTAIN THE FILING DATE
UNDER 37 C.F.R. §1.53(e)

TO THE COMMISSIONER OF PATENTS AND TRADEMARKS

Dear Sir:

In response to the Notice To File Missing Parts dated April 14, 2004, which states that page 19 appears to have been omitted from the application as filed, Applicants hereby submit this Petition under 37 C.F.R. §1.53(e) to maintain a filing date of September 11, 2003 for the above-referenced patent application. Applicants note that the filing date of September 11, 2003 has been granted in the Notice To File Missing Parts.

As demonstrated in the following paragraphs, and in view of the enclosures, Applicants filed the 49-page patent application, including page 19, on September 11, 2003. Accordingly, the filing date of September 11, 2003 should be maintained for the above-referenced application, including page 19 of the specification.

KCC 4979.1
(K-C 19,378B)
PATENT

A. STATEMENT OF FACTS AND REQUEST TO MAINTAIN THE FILING DATE
OF SEPTEMBER 11, 2003

The following facts are based on a reasonable and diligent investigation of the circumstances leading to the issuance of the Notice To File Missing Parts, which claims that page 19 was omitted from the application at the time of filing.

1. On September 11, 2003, Applicants submitted a Form 391 postcard, an Application Data Sheet (3 pages), a Utility Patent Application Transmittal (3 pages), an application (49 pages), and four (4) sheets of drawings, in connection with the above-referenced application. The application included a written specification including 61 claims and an abstract. The submitted documents totaled 59 pages.

2. As can be seen on the enclosed copy of an internal express mailing log (Exhibit A), documents with attorney docket number KCC 4979.1 (Client/Matter) and consisting of 55 pages with 4 drawings (i.e., 59 pages total) was deposited with the United States Postal Service on September 11, 2003. The Express Mail mailing receipt, evidencing that this deposit was in fact made with the Postal Service, is also enclosed (Exhibit B).

3. As can be seen on the enclosed copy of the date-stamped Form 391 postcard receipt (both sides) (Exhibit C), which shows receipt by the patent office of 49 pages of the application, the Utility Patent Application Transmittal (Exhibit D), which shows receipt by the patent office of 49 pages of the application, the

KCC 4979.1
(K-C 19,378B)
PATENT

application including 49 pages, and the drawings were submitted together.

4. On April 14, 2004, the Office mailed a filing receipt (Exhibit E) for the above-referenced application. A copy of the filing receipt is enclosed.

5. On April 14, 2004, the Office mailed the Notice To File Missing Parts including an omitted item, in which it was suggested that if Applicants believe the omitted item was deposited with the nonprovisional application papers, it should be corrected by filing the instant Petition to Maintain the Filing Date Under 37 C.F.R. §1.53(e). A copy of the Notice To File Missing Parts is enclosed.

6. The present Petition To Maintain the Filing Date Under 37 C.F.R. §1.53(e) of September 11, 2003 is being filed less than two months after the mailing date of the Notice To File Missing Parts including the omitted item.

7. In view of the foregoing, Applicants respectfully submit that specification page 19 of the above-referenced application was deposited with the nonprovisional application papers, and that the filing date of September 11, 2003 (09/11/2003) should be maintained for the application, including page 19 of the specification. Notwithstanding the foregoing, as a courtesy to the Office, Applicants enclose a copy of page 19 of the specification of the above-referenced application.

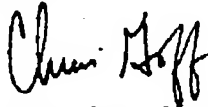
KCC 4979.1
(K-C 19,378B)
PATENT

B. Petition Fee (37 C.F.R. §1.17(h)).

A check in the amount of \$130.00 is enclosed herewith.

The Commissioner is hereby authorized to charge any fee deficiency in connection with this Petition To Maintain The Filing Date Under 37 C.F.R. §1.53(e) to Deposit Account No. 19-1345. In the event that page 19 of the specification is determined to have been received by the United States Patent and Trademark Office, Applicants respectfully request that a refund of the fee be applied to the aforementioned Deposit Account.

Respectfully submitted,



Christopher M. Goff, Reg. No. 41,785
SENNIGER, POWERS, LEAVITT & ROEDEL
One Metropolitan Square, 16th Floor
St. Louis, Missouri 63102
(314) 231-5400

CMG/JMB/dmt

Via Federal Express



UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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SENNIGER POWERS LEAVITT AND ROEDEL
ONE METROPOLITAN SQUARE
16TH FLOOR
ST LOUIS MO 63102

COPY MAILED

JUN 29 2004

In re Application of
✓ Joseph, et al.
✓ Application No. 10/659,969
✓ Filed: September 11, 2003
✓ Attorney Docket No. KCC 4979.1 (K-C
19,378B)
✓ For: ABSORBENT PRODUCTS
COMPRISING A MOISTURIZING AND
LUBRICATING COMPOSITION

DECISION DISMISSING
PETITION

This is a decision on the petition under 37 CFR 1.53(e), filed April 26, 2004, requesting that page 19 of the specification be accorded a filing date of September 11, 2003.

The application was filed on September 11, 2003. On April 14, 2004, the Office of Initial Patent Examination mailed a "Notice to File Missing Parts of Nonprovisional Application" (Notice) informing petitioners, *inter alia*, that page 19 appeared to have been omitted.

In response to the Notice, petitioner timely filed the present petition. Petitioners request that the application be accorded a filing date of September 11, 2003 with page 19 as part of the original application papers based on their contention that page 19 was received in the Patent and Trademark Office (PTO) on September 11, 2003. In support, the petition is accompanied by a copy of applicants' postcard receipt showing an Office of Initial Patent Examination generated barcode showing September 11, 2003 as the date of receipt. The postcard lists, *inter alia*, that the filing included 49 total pages of application. In addition, petitioners point to their Express Mail log and label with a date-in of September 11, 2003 to establish that page 19 was deposited in Express Mail on September 11, 2003.

Petitioners are advised that the provisions of 37 CFR 1.10(e) cannot be utilized to prove the contents of a mailing. MPEP 513 states, "Where there is a dispute as to the contents of correspondence submitted to the Office...an applicant may not rely upon the provisions of 37 CFR 1.10(e) to establish what document(s)... were filed in the Office with such correspondence. Rather, where the records of the Office (e.g. the file of the application) contain any document(s)... corresponding to the contents of the correspondence at issue, the Office will rely upon its official record of the contents of such correspondence in absence of convincing evidence (e.g., a postcard receipt under MPEP 503 containing specific itemization of the document(s)... purported to have been filed with the correspondence at issue) that the Office received and misplaced any document(s)... that is/are not among the official records of the Office."

dlw

Application No. 10/659,969

Page 2

A properly itemized return postcard constitutes *prima facie* evidence that the items were filed on the date stamped thereon. However, a postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard. MPEP 503. The itemized postcard in this case was not properly itemized. Therefore, the Office has no way of verifying whether page 19 was filed on September 11, 2003.

As stated in MPEP 503, "[M]erely listing on the postcard..."patent application" will not serve as a proper receipt for each of the required components of an application" The postcard proves that 49 total pages of application were filed on September 11, 2003.

An independent review of the application file reveals that more than 49 pages were filed on September 11, 2003. The Office received more than what was itemized on the postcard. Therefore, the postcard receipt cannot be relied upon to prove missing page 19 of the specification was received on September 11, 2003.

The petition under 37 CFR 1.53(e) is dismissed. Any request for reconsideration should be submitted within 2 months of the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a).

The application is being returned to the Office of Initial Patent Examination for further processing. Page 19 is not considered part of the original application papers and will not be processed as such.

Petitioners should submit an amendment to the specification removing sentence fragments on page 18 and 20 and renumbering the specification.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450
ATTN: E. Shirene Willis

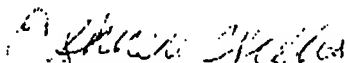
By hand: Crystal Plaza 1 Lobby
2011 South Clark Place
Room 1B03
Arlington, VA 22202
ATTN: E. Shirene Willis

By FAX: (703) 872-9306
ATTN: Office of Petitions – E. Shirene Willis

Any inquiries pertaining to this matter may be directed to the undersigned at (703) 308-6712.

Application No. 10/659,969

Page 3



E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

K-C 19,378B

preferred silicone emollients include Dow Corning 200 and Dow Corning 1503.

[0052] Suitable petroleum based emollients include those hydrocarbons, or mixtures of hydrocarbons, having chain lengths of from 16 to 32 carbon atoms. Petroleum based hydrocarbons having these chain lengths include mineral oil (also known as "liquid petrolatum") and petrolatum (also known as "mineral wax," "petroleum jelly" and "mineral jelly"). Mineral oil usually refers to less viscous mixtures of hydrocarbons having from 16 to 20 carbon atoms. Petrolatum usually refers to more viscous mixtures of hydrocarbons having from 16 to 32 carbon atoms.

[0053] Suitable fatty acid ester emollients include those derived from C_{12} - C_{28} fatty acids, preferably C_{16} - C_{22} saturated fatty acids, and short chain, such as C_1 - C_8 , preferably C_1 - C_3 , monohydric alcohols. Examples include methyl palmitate, methyl stearate, isopropyl laurate, isopropyl myristate, butyl myristate, butyl stearate, octyl palmitate, isopropyl isostearate, isopropyl palmitate, ethylhexyl palmitate, and mixtures thereof. Suitable fatty acid ester emollients can also be derived from monoesters and diesters of both short chain, such as C_1 - C_{10} , and longer chain fatty alcohols, such as C_{12} - C_{28} , preferably C_{12} - C_{16} , and shorter chain organic acids such as lactic acid, lauryl lactate and cetyl lactate. Additional examples include diisopropyl sebacate, dimethyl sebacate, dioctyl sebacate, dibutyl sebacate, diisopropyl adipate, and dicapryl adipate. In addition, mixtures of petroleum based emollients and fatty acid ester emollients can provide emollient systems that have a superior feel compared to the pure components individually.

[0054] Suitable alkyl ethoxylate type emollients include C_{12} - C_{22} fatty alcohol ethoxylates having an average degree of ethoxylation of from about 2 to about 30. Preferably, the fatty alcohol ethoxylate emollient is selected from the group of lauryl, cetyl, and stearyl ethoxylates, and mixtures thereof, having an average degree